The Man Who Refused to Be A Budenz, See Page 4.

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Time to Leave That Tent at Panmunjom

IN THE SPEECH, "TEN FACTS," with which Henry Cabot Lodge Jr., reopened the Korean debate at the General Assembly, he said righteously of the Indian proposal on prisoners of war, "It seemed impossible that there could be rulers in this world who would object to this offer, but it soon appeared that there were. The regimes of China and of North Korea have turned it down. . . . " But on the press tables that very same day the representatives of the Republic of Korea placed copies of a statement by Syngman Rhee's Minister of Foreign Affairs, Dr. Y. T. Pyun. The copies bore the notation that delivery had been "blocked by Soviet and Indian objection." In that speech, Rhee's representative objected to the Indian proposal and accused India of fronting for the Russians.

Nationalist China, too, attacked the proposal as futile. And Mr. Lodge seems to have forgotten that last November 17, as soon as the Indian plan was put forward, it was strongly attacked by a U.S. spokesman. It was not until Mr. Vishinsky rejected the plan that Mr. Acheson accepted it. Had Mr. Vishinsky said "da," it is certain that Mr. Acheson would have said "nyet." On November 23 the New York Times reported that the State Department regarded the Indian proposal as "a cover-up and a sell-out," of course to the Russians. Four days later Mr. Vishinsky bitterly attacked the Indian plan as a cover-up and a sell-out to the Americans. Blessed the peacemakers may be—but not in this world.

IN EVERY QUARREL, there comes a point at which momentum has brought both sides to such a pitch that only the vigorous interposition of third parties can bring peace. The Korean quarrel has long passed this stage. The exchange has become one of recriminations, in which both sides have become entangled by fury in ludicrous contradictions. The United Nations exchanges communications with the Chinese Communist and North Korean regimes, but will not consent to hear them. The "unified command" at Panmunjom is forced to recognize that they exist, but the UN would still like to pretend with the U.S. that they are not really there.

Chou En-lai objects to the UN that the Indian resolution as adopted by the General Assembly is based "on the hypothesis that there are actually some among the Korean and Chinese captured personnel who 'refuse to return home'." The Foreign Minister of Communist China says, "This does not accord in the slightest with human nature; still less does it square with the facts." But if Chou En-lai is so sure that all the prisoners would go home, why should he object to a plan which would hand them over to a Swedish-Swiss-Czech-Polish Commission, operating in a demilitarized zone with the aid of Red Cross teams from both sides, where they could decide freely whether they wished to return or not? The representative of Communist China objects feebly that in the demilitarized zone the prisoners of war would still be subject to the influence of Chinese Nationalist and South Korean secret agents planted among them. The representative of Syngman Rhee objected in the same way that the Indian proposal was bad because the prisoners in the demilitarized zone would be subject to "terrorism" by Communist agents among them.

ONE DIFFICULTY IN THIS SITUATION arises from the nature of the "unified command" which speaks in the UN's name but over which the UN has no control. Even those nations with troops in Korea have no direct voice in the operations in which their men participate; the "liaison" committee at the State Department through which they are briefed reminds one of those "liaisons" which drag on long after love has fled.

At Panmunjom the truce talks have been carried on a la MacArthur, between the military men in the field. The only military men represented on our side are the U.S. and South Korean forces. The British, French, Canadians, Turks and other allies are not represented even by observers in the truce tent. The South Koreans have been opposed openly to the talks from the start. The hostility of the American military in Korea to a truce has been little more concealed. The POW issue did not make its appearance until the American military recognized that the enemy would get many more men back than we would if there was a mass exchange. The "moral" issue of voluntary repatriation then began to make its appearance. This has been bedevilled because two issues were confused. One was whether anti-Communist prisoners had a right to resist repatriation. The other was whether military captors have a right to subject prisoners in their custody to political interrogation. On the second the "unified command" has been clearly in the wrong. On the first it is true that "voluntary repatriation" was specifically rejected in the drafting of the Geneva convention (largely on the insistence of the United Kingdom), but if the roles were reversed the other side would be insisting on the right of "anti-Fascist" prisoners, as at Stalingrad, to claim asylum.

NEVER HAS SO MUCH CANT ABOUT SO FEW MEN held so much danger to world peace. Chinese soldiers have been switching sides with ease ever since the Chinese civil war began, and whole regiments have been sold over the counter to the Reds. The mercenaries are in no danger if returned, and no great loss to the Communists if not returned. The devoted Reds will go back: the others are not worth fighting over, much less worth the price of continuing the captivity of our own men in enemy hands. Is there no way for the UN to bring both sides to their senses? The first step might be to take the stalemated truce talks away from Panmunjom altogether and authorize a committee of neutral States to try a fresh start.

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Surmise and Suspicion: The UN and The 5th Amendment

NEW YORK

THE FIFTH AMENDMENT SAYS no one "shall be compelled in any criminal case to be a witness against himself." This is the privilege against self-incrimination. Question: If a man invokes the privilege against self-incrimination, does that mean he is guilty of some crime?

In the voluminous brief presented to the Administrative Tribunal of the United Nations by three lawyers on behalf of 19 dismissed UN employes, the question is answered with "a classical law school situation" recently cited by the U. S. Circuit Court of Appeals (193 F 2d 1002), "A workman on his way to his job finds his enemy lying by the road with a knife sticking in him. He pulls out the knife. Before the grand jury he claims his privilege not to answer the question, 'Were you standing beside the dead man with a knife in your hand?'" To answer truthfully would be to say "Yes." To admit that he had been standing beside the body of the dead man with a knife in his hand might incriminate him and lead to his conviction, though he was not guilty of the crime. It is in this sense that Wigmore, the leading authority on Evidence, says "The truth is that the privilege exists for the sake of the innocent —or at least for reasons irrespective of the guilt of the accused."

A similar example is cited from the leading New York case, (People ex rel. Taylor v. Forbes, 143 N.Y. 219). A student had been killed by gas. Foul play was suspected. Another student had invoked the privilege and refused to answer certain questions. He was held in contempt. The highest court of the state overruled the conviction. It said of the student who had refused to answer questions, "He belonged to the sophomore class and the class in chemistry. He boarded at the house from which the jugs [of gas] were taken by someone. His room mate, at least, seems to have been one of the persons suspected as being in some way connected with the transaction. He was so surrounded by elements of circumstantial proof that the answers to any of the questions might form a link in the chain sufficient to subject him to the hazard of a trial upon a criminal charge. . . . He was placed thus in a position where he might lawfully claim the protection of the law and remain silent."

A MORE RECENT DECISION by the Supreme Court of Illinois (In re Holland 377 Ill. 346) cited this New York case and said, "without such safeguard any person, judge, lawyer or layman, may be forced to answer questions upon the mere suspicion of the public prosecutor, or in furtherance of a misuse of his discretion for political or other improper purposes." The words might have been used of the McCarran committee long harassing the UN. (See last week's issue, "Horror or Hoax: The Spy Charges Against the UN".)

The same Illinois court, ruling in favor of a man who had invoked the privilege though claiming innocence, went on to say, "While it is not to be construed as the opinion of this court that respondent's fears of an unjust prosecution are well founded, yet . . . the common knowledge of those familiar with the processes of the criminal law, that such processes have at times been used for purposes not founded on the furtherance of justice, must be considered in determining respondent's good faith in fearing indictment."

If this is true of the ordinary processes of the criminal law, it is doubly true of the current processes by which political questions are put to public officials by witch-hunting investigators, flanked by professional informers, in an atmosphere where accusation of "subversive" affiliations or sympathies is tantamount to conviction and denials are brushed aside as expected.

IS A PUBLIC OFFICIAL IN A DIFFERENT category from the ordinary citizen? Can be he dismissed for invoking his privilege? The answer is that he can, but only under certain circumstances.

In the absence of a specific legal provision, an office-holder cannot be deprived of his job for pleading his privilege under the Fifth Amendment. This is true even in the case of judicial officers, whether judges or lawyers. The Illinois case quoted above involved a judge; it was held that he could not be disciplined for pleading the privilege. The highest court of New York State similarly (Matter of Grae, 282 N.Y. 428) refused to discipline an attorney who had insisted on pleading the privilege. At present officers of New York State or New York City may be removed from office for invoking their privilege but this required an amendment to the State Constitution and of the New York City Charter.

These provisions, however, contain an important limitation which has been overlooked in the UN cases. A New York State office-holder may be dismissed only for refusing to testify "concerning the conduct of his office or the performance of his official duties."

In the UN hearings, of course, neither the grand jury nor the McCarran committee could arrogate to itself the right to question UN employes about the conduct of UN affairs. The McCarran inquiry was a fishing expedition. One of these nineteen suspended UN employes was asked whether he had ever advocated giving the atom bomb to the Soviet Union; another, "Have you ever expressed disapproval of the Soviet Union's army?" A third after denying membership in the Communist party was called on to say whether he had ever engaged in any activity against the Communist party. One prize question was whether Communists and Communist countries ought to be allowed in the UN. Ruth Crawford was asked whether she had been active with the National Committee to Repeal the McCarran Act.

ONE OF THE SILLIEST but most significant passages in the hearings was the angry interrogation of Frank C. Bancroft by Senators Smith and O'Conor:

Senator SMITH: I am not asking you about your father or grandfather. My ancestors were here 300 years ago, too. But to whom do you look and give your greatest loyalty, the United States of America of which you are a citizen, or the United Nations? No man would have to ask me that but once, no matter what.

Mr. BANCROFT: You are not an international civil servant.

Senator SMITH: And I don't want to be, if I have to——

Senator O'CONOR: Are you prepared to answer further? . . . Your regard for your United States citizenship is not such that you would be prepared to say now that you would always place that as highest?

Mr. BANCROFT: Sir, my regard for United States citizenship is so high that I am proud it belongs to an international organization for the preservation of peace in the world and I can't see any conflict between the two.

Senator O'CONOR: But you will not, however, state that it is superior to any obligations of the international organization, in the event of conflict?

It seemed almost as if Mr. Bancroft were being asked whether he would be willing to bear arms against the United Nations. The Senators seemed completely unaware that the Charter was drafted to make the staff of the UN independent of all national influences. The oath they take is to their obligations as international civil servants. Similar regulations bound the staff of the League of Nations. A drafting subcommittee at San Francisco reported that this created "no practical difficulty except in the case of Fascist States."

THE EFFECT OF THE AMERICAN LOYALTY purge has been to drive non-conformists out of the government and staff its civil service with safely mediocre minds. The McCarran hearings represent an effort to extend the process to the United Nations, to make the international organization a captive body, subject to the weird judicial standards of the American witch hunt.

The nature of the "adverse" reports Trygve Lie had been receiving from the State Department and secretly applying to his staff is sufficiently indicated by a passage from Assistant Secretary of State Hickerson's testimony at the McCarran hearings. Senator Ferguson asked whether the word "adverse" in the private personnel reports to the UN meant that the person was a member of the Communist party "or was subject to the discipline of the Communists":

Mr. HICKERSON: Senator, it doesn't go quite that far. In some cases it indicated that there was a strong suspicion, or a likelihood.

Senator FERGUSON: In other words, the test of what you were trying to convey, whether it was absolute or doubtful, was that the person that you were giving adverse information on was either a Communist or was subject to the discipline of communism?

Mr. HICKERSON: Or likely to become so.

Senator FERGUSON: Or likely to become so.

Mr. HICKERSON: Or that we suspected. Of course, we didn't have the facilities for making a full investigation. . . .

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Man Against Myth

IN REFUSING TO TELL the House Un-American Activities Committee anything more than his name, address and time and place of birth, Barrows Dunham has given Congressman Velde and his colleagues just about all they have a right to know about any college professor. Dr. Robert L. Johnson, president of Temple University, in suspending Dr. Dunham as head of its philosophy department, says every teacher has a duty to cooperate "with responsible government authority to preserve the freedom of our society." But the Velde witch hunt is not responsible authority. The House Committee is demonstrably irresponsible in its actions. It has no authority to inquire into education. Until these latter benighted years no one ever suggested that the way to "preserve the freedom of our society" was to harass and intimidate non-conformists.

The distinguished author of *Man Against Myth* has boldly entered the lists against the most dangerous myths of our time in challenging the right of the House committee to investigate education. His pusillanimous chief retires to become head of the Voice of America. But some day it well be recognized that the real voice of America spoke through the philosopher he has suspended. Dr. Dunham's "Man Against Myth" won the applause of minds as diverse as John Dewey, J.B.S. Haldane and Albert Einstein. His action deserves the support of every teacher and of everyone who believes in free education. The fight to reinstate Dunham will be a fight to reinstate freedom of education in America.

Suggestion

AS AN EX-FBI MAN, Congressman Velde is assumed to be a trained investigator. But the man who has set out to investigate America's colleges does not seem capable enough to investigate adequately the people he hires for his own staff. When Mrs. Agnes E. Meyer, wife of the chairman of the board of the *Washington Post*, criticized Velde's college witch hunt, the ex-FBI man retorted by declaring that Mrs. Meyer had written a pro-Soviet letter quoted by Pravda. When it turned out that the letter was written by a Mrs. G. S. Mayer of Port Clements, British Columbia, Velde announced he had fired the investigator responsible but declined to give his name.

It now appears that Velde might easily have learned that this investigator was unreliable. No wire-taps, mail-covers, informers, or fingerprints would have been required. A routine check back over newspaper clippings would have been enough. Last Sunday the *Washington Post's* crack reporter, Alfred Friendly, disclosed that the investigator was Robert R. "Bug-Eye" Barker, and added some interesting details. Barker was a star witness six years ago for those who tried to block the nomination of David E. Lilienthal as chairman of the Atomic Energy Commission.

"Bug-Eye" came forward with a letter he claimed to have filched in 1940 from Communist Party headquarters in Birmingham, Alabama, while working for Martin Dies. Barker claimed to have made two photostats before returning the letter to the files and testified that when he showed them to Dies the Texan ordered him to make a full dress investigation of TVA. The letter pictured Communism as rampant in the TVA under Lilienthal.

Martin Dies was queried about Barker's testimony by the *Washington Post* at the time but denied that he had ever heard of the document until it was printed in 1943 by the Knoxville, Tenn., *Journal*. Barker denied having sold the document to the *Journal* but two of its editors insisted that they bought it from him, but in mimeographed form. Barker could produce no photostats and Senate members of the joint committee mentioned the possibility of perjury charges but none were brought. Barker threatened the *Washington Post* at the time with suit for libel.

It would have taken no sleuth to check on Barker's record before hiring him, and it takes no psychologist to see why Barker could so easily confuse a Mrs. G. S. Mayer of British Columbia with a Mrs. Agnes E. Meyer of Washington, D. C. Were Mrs. Meyer a poor college professor, of course, such "errors" might not have mattered. The smear would have stuck. A person less powerful than a publisher's wife would not have had the resources to track down the error nor the means to overtake falsehood with fact. *The Weekly* suggests that Velde call off his college inquiry and investigate his own staff instead. How many others like "Bug-Eye" are in his employ?

Ideological Controversy on the Floor of The House

MR. PATMAN. This bill (amendment to the National Housing Act to have the government guarantee home repair and improvement loans) comes nearer being vulnerable to the charge of being socialistic than any other law I know of that has been passed in recent years. However, I do not look upon it as socialistic at all. It serves a great need. . . .

MR. LANHAM. The gentleman admits it is socialistic?

MR. PATMAN. No, I am not admitting that.

MR. LANHAM. The gentleman says it is subject to that charge. Does not the gentleman mean, then, that it is good socialism?

MR. PATMAN. No; I did not say it is good socialism. I beg the gentleman's pardon. I say it is vulnerable to the charge of socialism. I do not say it is socialistic, I say it comes nearer being vulnerable to the charge or as near being vulnerable to the charge of socialism as any act this Congress has passed in 20 years.

MR. LANMAN. I think the gentleman is begging the question and that it is socialism, but that it is justified.

MR. PATMAN. The gentleman can place his own interpretation on it for himself. . . .

Hat's Off

TO THE ONLY TWO MEMBERS of the House of Representatives who had the nerve to vote against this year's $300,000 appropriation for the House Un-American Activities Committee, Emanuel Celler of New York, and Roy W. Wier, of Minnesota.

Just A Phone Call to A Friend

With this issue the Weekly passes 6,800 subscribers. It needs 8,000 to be solidly in the black and to permit something less arduous than one-man-and-an-office-girl operation. Those who are buying it on the stands can save themselves $2.50 by using the subscription blank on page four. Those who have already subscribed can put the Weekly over the top by getting one or two more subscribers. They can also obtain a free copy of my forthcoming book, *The Truman Era* (to sell at $3.50 after publication in April) with two new subscribers, or get a copy for $1 with one new subscriber. Just a phone call to a friend who may be intending to subscribe anyway will put the Weekly on a firm foundation. Won't you make that call today?

—I. F. Stone

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The Man Who Refused to Be a Budenz

THEY HAD KNOWN EACH OTHER FOR MANY YEARS in the Communist party. When Bella Dodd phoned she said, "I don't suppose you'll want to talk to me, but it's urgent. I have a message from Roy Cohn. There's pressure from Washington to indict you. They don't want to do it. But you must make some gesture of cooperation. Will you call at the U.S. Attorney's office?" When he refused, she replied, "They'll send you to jail. They have an open and shut case."

Ten days later a Federal grand jury in New York handed up a perjury indictment against the man and his wife. Hearst's *Journal American* indicated that action was being taken because he had declined to "cooperate." The man who refused to be another Budenz was Earl Browder. In 1945 he was removed as head of the Communist Party, USA. In 1949 he lost his job as American representative for Soviet publishing houses. He had his first chance to tell all within two months of his ouster in 1945. Summoned before the House Un-American Activities Committee in September, 1945, Browder refused to talk. Browder's most dramatic episode in non-cooperation was his appearance in 1950 before the special Senate committee investigating the McCarthy charges against the State Department. Budenz had testified Browder told him Lattimore was a Communist. Browder denied this under oath.

AMID THE FIERCELY LILLIPUTIAN SECTARIANISMS of the left, only grudging recognition has been given Browder's record. He has eked out a precarious living in obscurity when he might have sold his memoirs for a small fortune to any one of a half dozen big magazines. On the heels of the perjury indictments last Fall, the Justice Department last week issued a warrant for deportation of his wife, mother of three American born sons.

"The place of justice is a hallowed place" it says on one of the stone carvings along the Pennsylvania avenue side of the Justice Department. There could be nothing less hallowed than this attempt to destroy a man and his wife because he refuses to become an informer. The Browders met in a cafeteria in Moscow in 1926, and were married there. She entered the U.S. from Canada in 1933. A warrant for her deportation was issued in 1940. All the facts involved in the current deportation action and in the perjury indictment were gone over extensively in four years of administrative hearings. The deportation warrant was cancelled.

IN 1946 MRS. BROWDER APPLIED for citizenship. In that proceeding both she and her husband declared under oath that she had not been a Communist. The application was neither granted nor rejected but three years later the Browders were summoned by the Immigration and Naturalization Service and asked the same questions again, under oath, as if to keep the matter fresh. The statute of limitations in perjury is three years. By repeating the same questions and answers in 1949, the government extended for three years more the period in which a perjury prosecution might be initiated. The trap was sprung last Fall. The indictments were obtained exactly two weeks before the statute of limitations would again have barred prosecution.

"They have an open and shut case," Bella Dodd had said to Browder. But the government does not seem to think so. Trial of the Browders on the perjury indictment was repeatedly postponed on request of the government. On February 24 the government asked indefinite postponement, hinting that the case was being dropped. The defense agreed readily. Next day the warrant for deportation was issued.

THE SWITCH IN TACTICS IS A CRAFTY ONE. The indictment would have to be tried in a court of law, where it would be difficult to prove that Mrs. Browder lied about her beliefs and that her husband lied in saying she was not a member of the Communist party. There is a line of cases which says that a person cannot be held guilty of perjury on a matter which involves opinion or belief. Membership in the Communist party is a question on which proof would have to be submitted. By shifting to deportation, the government takes the whole matter into its own administrative tribunals where the rights of aliens are sharply limited. Should the government win, the Russians would not take Mrs. Browder back. She might be detained for the rest of her life as a deportable alien. This is how they put the screws on a man who refuses to be a Budenz.

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